

AMENDED IN SENATE JUNE 28, 2006

AMENDED IN ASSEMBLY MAY 4, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2416

Introduced by Assembly Member Torrico

February 23, 2006

An act to add Section 22317.2 to the Financial Code, relating to loans.

LEGISLATIVE COUNSEL'S DIGEST

AB 2416, as amended, Torrico. Consumer loans: ~~appraisal fees.~~ *automated valuation model fees.*

Existing law, the California Finance Lenders Law, provides for the licensure and regulation by the Commissioner of Corporations of those engaged in making consumer loans and makes a willful violation of the law a crime. Under existing law, an appraisal fee may be charged by a licensee on any loan made that is secured by real property if specified requirements are satisfied. Existing law provides that only one fee for appraising the same real property may be collected unless the borrower has obtained a new or additional loan and more than one year has elapsed since the prior appraisal.

This bill would authorize a licensee to collect a fee for use of an automated valuation model *result* prepared by a 3rd party not to exceed the actual cost paid to ~~a~~ *the* 3rd party for a written automated valuation model result in lieu of an appraisal, as specified. *The bill would also authorize a licensee to charge a reduced appraisal fee for appraising the same real property one year after collecting a fee for an automated valuation model result if the borrower has obtained a*

new or additional loan. The bill would require a licensee in a loan transaction secured by real property to provide notice, as specified, to a borrower that, upon request, the borrower is entitled to receive a copy of the automated valuation model result, provided he or she has paid for the automated valuation model result.

~~The~~

Because a willful violation of the bill's requirements by a licensee would be a crime, the bill—thereby would impose a state-mandated local program ~~by expanding the scope of an existing crime.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22317.2 is added to the Financial Code,
2 to read:
3 22317.2. (a) A licensee may collect a fee for use of an
4 automated valuation model *result* prepared by a third party not to
5 exceed the actual cost paid to—~~a~~ *the* third party for a written
6 automated valuation model result in lieu of the appraisal
7 provided for in Section 22317. The borrower shall not be charged
8 for both an automated valuation model result and an appraisal as
9 defined in Section 22317 for the same property in a single
10 transaction. Only one fee for providing an automated valuation
11 model result *or an appraisal* for the same real property may be
12 collected unless the borrower has obtained a new or additional
13 loan and more than one year has elapsed since the prior delivery
14 of an automated valuation model result *or an appraisal*.
15 *However, if a fee for an automated valuation model result has*
16 *been paid, an appraisal fee minus the amount that has been paid*
17 *by the borrower for the automated valuation model result may be*
18 *charged for an appraisal for the same real property within one*
19 *year if the borrower has obtained a new or additional loan.* The
20 fee is not included in charges as defined in this division or in

1 determining the maximum charges that may be made under this
2 article.

3 (b) A licensee in a loan transaction secured by real property
4 shall provide notice as described in this section to a borrower of
5 the borrower's right to receive a copy of the automated valuation
6 model result, provided he or she has paid a fee for the automated
7 valuation model result. A borrower's written request for a copy
8 of an automated valuation model result shall be received by the
9 licensee no later than 90 days after (1) the licensee has provided
10 notice of the action taken on the application, including a notice of
11 incompleteness, or (2) the application has been withdrawn.

12 (c) The licensee shall mail or deliver a copy of an automated
13 valuation model result within 15 days after receiving a written
14 request from the borrower, or within 15 days after receiving the
15 automated valuation model *result*, whichever occurs later.

16 (d) Where the loan is proposed to be secured by residential
17 real property, the notice of the borrower's right to a copy of the
18 automated valuation model result shall be given in at least
19 10-point boldface type, as a separate document in a form that the
20 borrower may retain, and no later than 15 days after the licensee
21 receives the written application. The notice shall specify that the
22 borrower's request for the automated valuation model result must
23 be in writing and must be received by the licensee no later than
24 90 days after the licensee provides notice of the action taken on
25 the application or a notice of incompleteness, or in the case of a
26 withdrawn application, 90 days after the withdrawal. An address
27 to which the request should be sent shall be specified in the
28 notice. Release of the automated valuation model result to the
29 borrower may be conditioned upon payment of the fee.

30 (e) This section does not apply to automated valuation model
31 results obtained by licensees on property owned by the licensee,
32 nor to automated valuation model results obtained by the licensee
33 in anticipation of modifying any existing loan agreement if the
34 licensee does not charge for the use of the automated valuation
35 model *result*.

36 (f) *For purposes of this section, an "automated valuation*
37 *model" is a computerized property valuation system that is used*
38 *to derive a real property value.*

39 (f)

1 (g) Nothing in this section authorizes the use of an automated
2 valuation model *result* in lieu of an appraisal that is required
3 under state or federal law.

4 SEC. 2. No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 the only costs that may be incurred by a local agency or school
7 district will be incurred because this act creates a new crime or
8 infraction, eliminates a crime or infraction, or changes the
9 penalty for a crime or infraction, within the meaning of Section
10 17556 of the Government Code, or changes the definition of a
11 crime within the meaning of Section 6 of Article XIII B of the
12 California Constitution.